UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	Case No. 1:07CR457-3
	)	
Plaintiff,	)	
	)	
vs.	)	REPORT AND RECOMMENDATION
	)	OF MAGISTRATE JUDGE
JAMES R. CHAPMAN,	)	
	)	
Defendant.	)	Magistrate Judge Kenneth S. McHargh
	)	

Pursuant to General Order 99-49, this matter having been referred to United States Magistrate Judge Kenneth S. McHargh for purposes for receiving, on consent of the parties, the defendant's offer of a plea of guilty, conducting the colloquy prescribed by Fed. R. Crim. P. 11, causing a verbatim record of the proceedings to be prepared, referring the matter, if appropriate, for presentence investigation, and submitting a Magistrate Judge's Report and Recommendation stating whether the plea should be accepted and a finding of guilty entered, the following, along with the transcript or other record of the proceedings submitted herewith, constitutes the Magistrate Judge's Report and Recommendation concerning the plea of guilty proffered by the defendant.

1. On October 23, 2007, the defendant, accompanied by counsel, proffered a plea of guilty to count one (1) of the Indictment.

2. Prior to such proffer, the defendant was examined as to his competency, advised of the charge and consequences of conviction, informed that the Federal Sentencing Guidelines are advisory and the Court must consider them but the Court may impose any sentence authorized by law, notified of his rights, advised that he was waiving all his rights except the right to counsel, and, if such were the case, his right to appeal, and otherwise provided with the information prescribed in Fed. R. Crim. P. 11.

3. The parties and counsel informed the court about a written plea agreement between the parties. The defendant and the government orally modified the agreement to reflect the defendant's waiver of certain appellate rights, with the understanding that the oral modification would be reduced to writing and filed as an addendum to the plea agreement. The undersigned was advised that, aside for such agreement as described or submitted to the court, no other commitments or promises have been made by any party, and no other agreements, written or unwritten, have been made between the parties.

4. The undersigned questioned the defendant under oath about the knowing, intelligent, and voluntary nature of the plea of guilty, and finds that the defendant's plea was offered knowingly, intelligently, and voluntarily.

5. The parties provided the undersigned with sufficient information about the charged offense(s) and the defendant's conduct to establish a factual basis for the plea.

In light of the foregoing and the record submitted herewith, the undersigned finds that the defendant's plea was knowing, intelligent, and voluntary, and that all requirements imposed by the United States Constitution and Fed. R. Crim. P. 11 have been satisfied. Therefore, the undersigned recommends that the plea of guilty be accepted and a finding of guilty be entered by the Court.

s/Kenneth S. McHargh
Kenneth S. McHargh
United States Magistrate Judge

Date: October 26, 2007

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of receipt of this notice. Failure to file objections within the specified time WAIVES the right to appeal the Magistrate Judge's recommendation. *See*, *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986).